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Follow-up to the Second World Assembly on Ageing

Report of the Secretary-General

Summary

The present report focuses on the situation of the human rights of older persons in all regions of the world. It offers an overview of some challenges faced by older women and men in the enjoyment of their rights and outlines examples of Government responses to those challenges. It also offers an illustrative collection of legislation, policies and programmes and describes key human rights issues, including, but not limited to, discrimination, violence and abuse, social protection, long-term care, age-specific services, participation, access to justice and life-long pensions.

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 65/182 entitled "Follow-up to the Second World Assembly on Ageing". In paragraph 31 of that resolution, the Assembly requested the Secretary-General to prepare a report on the implementation of the resolution, including on the situation of the rights of older persons in all regions of the world. On 3 February 2011, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sent a note verbale to Member States, relevant bodies and organizations of the United Nations system, as well as intergovernmental and non-governmental organizations and national human rights institutions to inform them about the report. The note verbale included a questionnaire of nine points, soliciting observations and information on existing legislation, policies and programmes related to various human rights issues related to older persons. Written contributions were received from 41 States, 8 United Nations entities, 20 national human rights institutions and 10 non-governmental organizations, coalitions and other groups. A full list of respondents and all submissions to the report may be viewed on the OHCHR website.[1] In this regard, it should be noted that the submissions cover a wide diversity of national, legal, social and economic situations and that, while acknowledging that older persons are clearly a heterogeneous group, the situation of older persons between and within Member States varies widely.

2. The report is organized into three sections. Section II below outlines the current situation and the challenges faced by older persons in all regions of the world. Section III presents an overview of the existing international framework, including binding international human rights instruments, and discusses some of the principles, standards and obligations of States parties that are applicable to older persons. Section IV offers a collection of examples from the submissions to the report, covering several specific issues and areas of relevance to older persons. In addition, conclusions and recommendations are presented in section V.

II. Current situation and challenges

3. The composition of the world population has changed dramatically in recent decades. Between 1950 and 2010 life expectancy worldwide rose from 46 to 68 years, and it is projected to increase to 81 by the end of the century.[2] It should be noted that at present women outnumber men by an estimated 66 million among those aged 60 years or over. Among those aged 80 years or over, women are nearly twice as numerous as men, and among centenarians women are between four and five times as numerous as men. For the first time in human history, in 2050, there will be more persons over 60 than children in the world.

4. Almost 700 million people are now over the age of 60. By 2050, 2 billion people, over 20 per cent of the world's population, will be 60 or older. The increase in the number of older people will be the greatest and the most rapid in the developing world, with Asia as the region with the largest number of older persons, and Africa facing the largest proportionate growth. With this in mind, enhanced

[1] For all submissions see http://www.ohchr.org/EN/Issues/OlderPersons/Pages/Submissions.aspx.

[2] *World Population Prospects: The 2010 Revision*, available from http://esa.un.org/unpd/wpp/unpp/panel_indicators.htm.

attention to the particular needs and challenges faced by many older people is clearly required. Just as important, however, is the essential contribution the majority of older men and women can continue to make to the functioning of society if adequate guarantees are in place. Human rights lie at the core of all efforts in this regard.

5. During the last decade, population ageing has led to the introduction of new policies and programmes, in which the social sector has taken centre stage, as shown by the majority of contributions to the present report. Many Governments in developed and developing economies have designed or piloted innovative policies in the health, social security or welfare systems. In addition, several policy framework documents, including national plans of action on ageing have been enacted. Specific age-related legislative measures in areas as varied as building codes, licensing and monitoring of care centres and vocational training have also begun to emerge. All levels of government, from local to national, have taken a share in this responsibility, and have either created new institutions or renewed existing ones to seek ways of gradually responding to the challenges faced by older persons.

6. Government institutions have chosen diverse approaches in setting priorities. These choices highlight different perceptions of the role that older people play in the family and in society at large. In some cases, measures aim to capture the rapidly evolving dynamics of communities and societies, inviting a second look at current perceptions about older persons and work, elder-care mechanisms, intergenerational support systems and financial constraints. Some Governments have designed policies founded on the principle of active ageing and autonomy, aimed at facilitating the continuation of independent lives at home, with services and facilities that cater for various types of needs. Others emphasize family ties and support for the family unit as the primary source of care for older persons. In all cases, a network of private actors, including various volunteer organizations and community-based centres, are essential to the smooth functioning of the entire system.

7. Of special resonance is the situation of older women[3] who face inequalities as a result of their gender-based roles in society. Gender relations structure the entire life cycle, influencing access to resources and opportunities, with an impact that is both ongoing and cumulative. The different circumstances that shape the lives of women and men in old age are the outcome of a lifetime of experience. Good health, economic security, adequate housing, an enabling environment, access to land or other productive resources, these are the fundamentals of ageing with dignity, yet achieving them depends on decisions and choices only partly determined by each individual. The impact of gender inequalities in education and employment becomes most pronounced in old age. As a result, older women are more likely than older men to be poor. Furthermore, older women often take on greater responsibilities for family care while managing inflexible working conditions, mandatory retirement ages and inadequate pensions and other social security benefits, which leave them, and those in their care, extremely vulnerable. Without doubt, ageing, its human rights challenges and its feminization constitute an unprecedented shift in the social fabric of all societies, with far-reaching consequences.

[3] See CEDAW/C/2010/47/GC.1, general recommendation No. 27 (unedited version).

8. Although numerous challenges were identified in the submissions for the report, the following four appeared repeatedly and consistently around the world: (a) poverty and inadequate living conditions; (b) age-related discrimination; (c) violence and abuse; and (d) lack of special measures, mechanisms and services.

Poverty and living conditions

9. The single most pressing challenge to the welfare of older persons is poverty, including the often inadequate living conditions of older persons. Homelessness, malnutrition, unattended chronic diseases, lack of access to safe drinking water and sanitation, unaffordable medicines and treatments and income insecurity are just a few of the most critical human rights issues that a large number of older persons confront on a daily basis.

10. Several States have recognized the relatively low standard of living among older persons as compared to other segments of the population, including the prevalence of poverty, and even extreme poverty. Oftentimes, despite lower income levels, older persons may be the main providers for the household and the primary caregivers, including for the care of grandchildren and other members of the family.

11. Submissions to the report also point to gaps in the provision of services between urban and rural settings, and also within cities, in suburban and slum areas. Access, affordability and quality of services constitute a critical concern in those areas. Social and medical services, for example, particularly in remote and sparsely populated villages, pose additional challenges to the system, despite the existence in some countries of mobile services teams that provide home-based social services.

12. This subject is also linked with living arrangements. Rapidly changing social and economic patterns and the nuclearization of families have frequently been cited as a reason for a perceived decline in family support for older persons. In some cases, this change has created an unmet need for more residential homes and shelters. Some societies are coping with large migratory movements, where the elderly are left behind, or responsible for the care of orphaned grandchildren as a result of HIV/AIDS. Their contributions as caregivers are often unrecognized, their remittances unpredictable and care for themselves and others is expected to carry on without sources of income.

Discrimination

13. Another persistent challenge in both developed and developing countries is stigma and discrimination. While the essential role older persons can play as custodians of culture and history is recognized, paradoxically, many contributions to the report acknowledged that prejudice against and stigmatization of older persons ("ageism") are broadly tolerated in societies across the world. Ageism is widespread in recruitment, and legislation by itself has not eliminated age-related employment discrimination. A common complaint brought to national human rights institutions by ageing and older persons was being declined employment, interviews or other opportunities to find work as a consequence of age.

14. When age is shaped by other dimensions that define identity in different societies, including sex, race and ethnicity, religion, disability, nationality, health or socio-economic conditions, multiple discrimination occurs, with a consequent impact on the enjoyment of all human rights. Submissions to the report underscored

the situation of older persons who are poor, living in rural areas, suffering from chronic diseases or other health conditions or living with disabilities, as well as that of divorced, widowed or single older women.

Violence and abuse of older persons

15. Contributions also point to the incidence and impact of violence and abuse on the quality of life and health of older persons. Elder abuse, generally defined as physical, emotional or sexual abuse by someone in a position of trust, occurs worldwide. Its numerous forms include forced guardianship, as well as physical and sexual violence in care centres, hospitals or within the family. There are also specific threats related to traditional beliefs, including violence as a result of accusations of sorcery and violence against particularly vulnerable older persons such as migrants, older persons with disabilities, older persons in conflict situations and older persons living in poverty, particularly the homeless.

Lack of specific measures and services for older persons

16. There can be no question that the provision of services and the design of special measures have a bearing on the enjoyment of a broad spectrum of human rights. In this context, there is a lack of resources and facilities to cope with increasing demands, particularly for specialized services such as residential centres, home-care programmes or geriatric services. While this phenomenon can manifest itself differently in various contexts, it is not confined to any one region. In some cases, Member States recognize the lack of sufficient residential centres, particularly outside capitals. In other cases, there is chronic overcrowding or an insufficient supply of adequately trained medical and nursing personnel. Some submissions to the report emphasized the importance of budget allocations for the provision of such services in order to respond to the ever increasing demand.

III. International norms and standards related to the rights of older persons

International political instruments

17. The international community started to highlight the situation of older persons in the Vienna International Plan of Action on Ageing, adopted at the World Assembly on Ageing in 1982. The 1991 United Nations Principles for Older Persons, the 1992 Global Targets on Ageing for the Year 2001 and the 1992 Proclamation on Ageing further advanced international understanding of essential requirements for the well-being of older persons.

18. The Political Declaration and the Madrid International Plan of Action on Ageing, 2002, adopted at the Second World Assembly on Ageing, and endorsed by the General Assembly in its resolution 57/167, reinvigorated the political consensus on an agenda on ageing, emphasizing development and international cooperation and assistance in this area. Since its adoption, the Madrid International Plan has guided the drafting of policies and programmes at the national level, inspired the development of national and regional plans and provided an international framework for dialogue.

19. In the Political Declaration adopted in Madrid, Member States reaffirmed their commitment to the promotion and protection of human rights, and called for the elimination of age discrimination, neglect, abuse and violence. More specifically, the Madrid International Plan contained guidance on the right to work, the right to health, participation and equality of opportunity throughout life, stressing the importance of the participation of older persons in decision-making processes at all levels.

20. The priorities set out in the Madrid International Plan of Action include a wide range of issues: equal employment opportunities for all older persons; programmes that enable all workers to acquire social protection and social security, including, where applicable, pensions, disability insurance and health benefits; and sufficient minimum income for all older persons, with particular attention to socially and economically disadvantaged groups. The importance of continuous education, vocational guidance and placement services are also stressed, including for the purpose of maintaining a maximum functional capacity and enhancing public recognition of the productivity and the contributions of older persons. Health is also a key feature of the Madrid Plan of Action. The provisions encompass notions of prevention, equal access to health care, active participation, the impact of HIV/AIDS in respect to older persons and the full functionality of supportive and care-giving environments.

Binding international instruments

21. There are numerous obligations vis-à-vis older persons implicit in most core human rights treaties[4] despite the lack of specific provisions focusing on them. Such instruments apply to older persons in the same way as to all other people, providing protection for essential human rights, including the right to the enjoyment of the highest attainable standard of physical and mental health, freedom from torture, inhuman or degrading treatment and equality before the law as well as for an adequate standard of living without discrimination on any grounds.

22. Nevertheless, explicit references to age in core international human rights treaties are scarce. While universal human rights instruments have been dedicated to several categories of persons, for example, women or persons with disabilities, there is no such instrument for older persons, and only a few instruments contain explicit references to age: (a) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families includes "age" in the list of grounds for discrimination (article 7); (b) the Convention on the Rights of Persons with Disabilities includes references to older persons in article 25 (b) on health, and in article 28 (2) (b) on an adequate standard of living and social protection, and there are additional references to age-appropriate access to justice in article 13 and to age-sensitive measures of protection in article 16; and (c) the Convention on the Elimination of All Forms of Discrimination against Women includes a reference to

[4] The International Covenant on Economic, Social and Cultural Rights (General Assembly resolution 2200A (XXI)), the International Covenant on Civil and Political Rights (General Assembly resolution 2200A (XXI)), the Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180), the International Convention on the Elimination of All Forms of Racial Discrimination (United Nations, *Treaty Series*, vol. 660, No. 9464) and the Convention on the Rights of Persons with Disabilities (General Assembly resolution 61/106).

old age in relation to the elimination of discrimination against women in the enjoyment of the right to social security in article 11.1 (e).

23. Since the prohibition of discrimination is one of the pillars of international human rights law, de jure and de facto discrimination against any individual must be at the centre of any human rights analysis. Discrimination is defined as any distinction, exclusion or restriction that has the purpose or the effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.[5]

24. At the international level, while "age" is not explicitly listed as a prohibited ground of discrimination in most human rights treaties, the lists are illustrative and non-exhaustive, and usually include an open-ended category ("other status") under which treaty bodies consider age-related discrimination.

25. The explicit inclusion of age as a form of discrimination by the International Labour Organization (ILO) had to await the adoption of the Older Workers Recommendation No. 162 in 1980,[6] which called for measures to prevent discrimination in employment and occupation within the framework of a national policy to promote equality of opportunity and treatment of workers, whatever their age. Additionally, the ILO Termination of Employment Recommendation No. 166 of 1982[6] stated that age should not constitute a valid reason for termination, subject to national law and practice regarding retirement.

26. The Committee on Economic, Social and Cultural Rights has consistently taken a similar approach, holding that age is "a prohibited ground of discrimination in several contexts".[7] The Committee has also highlighted the need to address discrimination against unemployed older persons and against older persons living in poverty with unequal access to universal old-age pensions owing to their place of residence.[8]

27. Significantly, article 26 of the International Covenant on Civil and Political Rights provides for the protection of equality before the law, including a guarantee for effective protection against discrimination on any other ground. The Human Rights Committee has voiced the opinion that "a distinction related to age which is not based on reasonable and objective criteria may amount to discrimination on the ground of 'other status'" under article 26, and has confirmed this approach in a number of individual communications.[9]

28. The Human Rights Committee has further clarified that article 26 encompasses the prohibition of discrimination in law or in practice in any field regulated and protected by public authorities, whether the legislation related to an article in the

[5] See for example the Convention on the Elimination of All Forms of Discrimination against Women, article 1, and the Convention on the Rights of Persons with Disabilities, article 2.

[6] Available from http://www.ilo.org/ilolex.

[7] See Committee on Economic, Social and Cultural Rights, general comment No. 20, "Non-discrimination in economic, social and cultural rights" (E/C.12/GC/20, para. 29).

[8] See also Committee on Economic, Social and Cultural Rights, general comment No. 6, "The economic, social and cultural rights of older persons" (E/1996/22, annex IV, para. 22).

[9] See Human Rights Committee, *Love et al. v. Australia*, Communication No. 983/2001, *Schmitz-de-Jong v. The Netherlands*, Communication No. 855/1999, *Solis v. Peru*, Communication No. 1016/2001 and *Althammer et al. v. Austria*, Communication No. 998/2001 (available from http://www2.ohchr.org/english/bodies/hrc).

International Covenant on Civil and Political Rights or any other area, including a right under the International Covenant on Economic, Social and Cultural Rights.[10]

29. Beyond the prohibition of discrimination on the ground of age, human rights mechanisms have also identified older persons as being a vulnerable group requiring special measures of protection. Specifically, article 16 (2) of the Convention on the Rights of Persons with Disabilities requires "age-sensitive" assistance and support for persons with disabilities and their families to prevent exploitation, violence and abuse, thereby recognizing the particular situations where older persons are vulnerable.

30. Some treaty body monitoring mechanisms have applied existing provisions to protect the rights of older persons, notably the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women, by providing interpretative guidance on existing norms. In 1995, the Committee on Economic, Social and Cultural Rights adopted general comment No. 6[8] offering the first detailed interpretation of the specific obligations of States parties to the International Covenant on Economic, Social and Cultural Rights regarding older persons and their rights. More recently, in 2010, the Committee on the Elimination of Discrimination against Women adopted general recommendation No. 27[3] on older women and the protection of their human rights under the Convention.

31. In relation to specific rights, the International Covenant on Economic, Social and Cultural Rights provides for several specific rights relevant to the challenges older persons face, such as the right to the enjoyment of the highest attainable standard of physical and mental health (article 12), the right to social security (article 9), the right to adequate standard of living, including food, clothing and housing (article 11), the right to work (articles 6 and 7) and the right to education (article 13). The content of these rights is briefly outlined in the next paragraphs.

32. The International Covenant on Economic, Social and Cultural Rights sets forth the most comprehensive provision on the right to the enjoyment of the highest attainable standard of physical and mental health — the right to health — in an international human rights treaty. Equally relevant are the Convention on the Elimination of All Forms of Discrimination against Women, article 12, concerning the obligation of States to eliminate discrimination against women in health care; the Convention on the Rights of Persons with Disabilities, article 25 (b), which requires that health services be "designed to minimize and prevent further disabilities, including among children and older persons"; and the International Covenant on Civil and Political Rights, article 7, which prohibits torture or cruel, inhuman or degrading treatment or punishment and includes the prohibition of medical or scientific experimentation without free consent.

33. The Committee on Economic, Social and Cultural Rights has reaffirmed the importance of an integrated approach, combining elements of preventive, curative and rehabilitative health treatment, based on periodical check-ups for both sexes; physical as well as psychological rehabilitative measures aimed at maintaining the functionality and autonomy of older persons; and attention and care for chronically

[10] Human Rights Committee, *FH Zwaan-de Vries v. The Netherlands*, Communication No. 182/1984 (CCPR/C/29/D/182/1984).

and terminally ill persons, sparing them avoidable pain and enabling them to die with dignity.[11]

34. The right to an adequate standard of living, including adequate food and housing, and the continuous improvement of living conditions is provided for in the International Covenant on Economic, Social and Cultural Rights, article 11.1, and there is similar language in article 28 of the Convention on the Rights of Persons with Disabilities. With regard to the right to housing, the Committee on Economic, Social and Cultural Rights has endorsed some of the recommendations contained in the Vienna International Plan of Action on Ageing,[12] noting that national policies should help older persons to continue to live at home and ensure their social integration, facilitating mobility and communication through the provision of adequate means of transport.[13]

35. The right to social security, including social insurance, is enshrined in various instruments, notably in: article 9 of the International Covenant on Economic, Social and Cultural Rights, in general terms; in article 11.1 (d) and (e) of the Convention on the Elimination of All Forms of Discrimination against Women, which provides for equality and non-discrimination of women, particularly in cases of retirement, unemployment, sickness, invalidity and old age; and in article 28.2 of the Convention on the Rights of Persons with Disabilities, which provides for the enjoyment of social protection on an equal basis with others, and also for older persons with disabilities to have access to social protection and poverty reduction programmes.

36. In 2010, the independent expert on the question of human rights and extreme poverty addressed the issue of non-contributory or social pensions of older persons as an important dimension of social security systems. Her report stressed the low coverage of contributory pension schemes and provided recommendations to ensure that non-contributory pensions comply with core human rights standards.[14]

37. Regarding the right to work, articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights spell out the scope and content of the right and state that everyone is entitled to opportunity to gain his/her living by freely chosen work, under just and favourable working conditions and with fair wages and equal remuneration for equal work. In its general comment No. 6, the Committee on Economic, Social and Cultural Rights urged States to take measures to prevent discrimination on the grounds of age in employment and occupation and to develop retirement programmes (paras. 22-25). General comment No. 19 (para. 15) stressed the need for appropriate retirement ages, which should be established by States, and general recommendation No. 27 of the Committee on the Elimination of Discrimination against Women highlighted the importance of paid work for older women.

38. Regarding the right to education, as underlined by the Committee on Economic, Social and Cultural Rights, in relation to article 13 of the International

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[11] See Committee on Economic, Social and Cultural Rights, general comment No. 14, "The right to the highest attainable standard of health" (E/C.12/2000/4, paras. 25, 34 and 35).

[12] Similar references are also found in the Madrid International Plan of Action on Ageing, see *Report of the Second World Assembly on Ageing, Madrid, 8-12 April 2002* (United Nations publication, Sales No. E.02.IV.4), chap. I, resolution 1, annex II, priority direction III.

[13] See E/1996/22, annex IV, para. 33.

[14] See A/HRC/14/31.

Covenant on Economic, Social and Cultural Rights[15] in the case of older persons, States should follow two complementary lines: (a) ensuring the right of older persons to benefit from educational programmes; and (b) making the know-how and experience of older persons available to younger generations. The Committee recalled the United Nations Educational, Scientific and Cultural Organization (UNESCO) concept of life-long education, which includes informal, community-based and recreation-oriented programmes for older persons in order to develop their sense of self-reliance and the community's sense of responsibility.

39. Other relevant provisions that can potentially benefit older persons, even if they do not specifically address their concerns, are to be found in the Convention on the Rights of Persons with Disabilities, including: article 9 on accessibility; article 12 on equal recognition before the law, including in relation to appropriate measures to support the enjoyment and exercise of legal capacity; article 19 on living independently and being included in the community, including choice of place of residence on equal basis with others and access to a range of in-home, residential and other community support services; article 20 on personal mobility, including access to mobility aids, devices, assistive technologies and specialist staff; and article 26 on habilitation and rehabilitation to maintain maximum independence.

IV. National responses to specific human rights issues

40. Older persons are not a homogenous group and should not be treated as such. The experience of old age is different for men and women, and it also differs significantly between someone in his or her 60s or 80s. Health conditions, security of income, opportunities for work, leisure and participation, social and environmental adaptations and autonomy and freedom to decide on matters central to their well-being can greatly determine the way in which each individual leads a life with dignity regardless of age.

41. Nevertheless, what older persons share, as a group, is the experience of living within societies in which stereotyping, the attribution of lesser value, political disempowerment and economic and social disadvantage often accompany ageing. In this context, laws and policies to enhance the respect, protection and fulfilment of all human rights, regardless of age, are as essential as specific measures and mechanisms to accommodate their needs and tailor services, goods and facilities to all ages.

A. National laws and policies

42. In general terms, a number of constitutions expressly recognize the principles of equality and non-discrimination vis-à-vis older persons, albeit in various terms and to different degrees. Some include an explicit reference to "age" as a forbidden ground of discrimination, while others guarantee protection under the general non-discrimination clause of "any other grounds". A few constitutions also contain explicit references to older persons and specific rights, including recently drafted constitutions which include provisions for the protection of older persons against violence and abuse, life-long pensions and care, cultural rights and participation.

[15] See E/1996/22, annex IV, paras. 36 and 37.

43. Submissions to the present report also list and discuss numerous laws containing specific provisions for the protection of the human rights of older persons. In some cases, national legislation has been enacted based on regional directives addressing non-discrimination.[16]

44. In several countries, the provision of services and the implementation of specific policies are decentralized and reside with local governments. In part the rationale behind decentralization presumes a better understanding of the needs and constraints at the local level, as well as closer links to the beneficiaries. In such cases, local governments define a list of services and bear legal responsibility for ensuring assistance for the early detection of violence or abuse and for reporting and responding to such situations. In addition, there are specific community decrees and regulations to combat discrimination based on age.

45. Nevertheless, decentralization without sufficient funding or effective powers does not always ensure a better outcome. For instance, the delay in the delegation of powers to provinces to implement dedicated legislation or programmes is underlined as one of the main reasons for critical delays in implementation. Other prerequisites to effective implementation include: substantial increases in funding; training of social workers to meet the critical shortage of such workers; cooperation among government departments and service providers; and the state of readiness of provinces to implement specific policies and programmes.

46. In various submissions, it is made clear that new legislation and policies jointly address the situations of older persons and persons with disabilities. Some States have created special offices for both older persons and persons with disabilities, applying a similar approach and joint initiatives to those groups. Those bodies have also carried out awareness-raising media campaigns for both population groups on television and radio, aiming at countering stigma.

47. The link between older persons and persons with disabilities merits consideration. While not all older persons will experience a disability, and ageing cannot be equated with disability, some older persons also have disabilities. There is no doubt that ageing can be accompanied by physical, mental, intellectual or sensory impairment and that some measures that address issues such as mobility, supported decision-making, legal capacity or home-based care can respond to various human rights issues affecting both older persons and persons with disabilities. However, failure to establish and address issues specific to each group or to enact policies for older persons and to devote adequate financial and human resources to their needs creates the risk of neglect. Some challenges confronted by older persons who do not have disabilities may also leave them without access to policies or measures to ensure them the enjoyment of all their rights on an equal basis with others.

48. A small number of States have designed comprehensive and multisectoral mechanisms in their response to ageing populations since the 1990s, investing considerable resources and incorporating lessons learned and pilot projects. In such cases, a series of laws, regulations and policies intended to safeguard social security,

[16] See for example the principle of equal treatment in relation to age as set out in the European Council directive establishing a general framework for equal treatment in employment and occupation (Council Directive 2000/78/EC of 27 November 2000).

health, culture, education, sports and community involvement for older persons has been set.

49. Finally, for the purpose of designing and assessing laws and policies, the collection and systematic analysis of information disaggregated by age is crucial. Without accurate, regularly updated data, the integration of all human rights obligations, including the monitoring of discrimination, may be ineffective or obsolete. Quantitative data, such as socio-economic statistics, offer an overview of the situation, but may also at times mask inequality. Unfortunately, age-disaggregated information is not widely available.

50. The need to improve national systems of statistics/data collection, particularly statistics on persons aged 60 and above, is pressing. A handful of Governments have taken steps in response to this challenge, including the creation of a statistical indicator system for ageing workers, which provides basic data for formulating plans and assessment mechanisms. In the same vein, some Governments have commissioned studies to assess the living conditions of older persons, while others have added a module on older persons in periodic multi-purpose household surveys. Others have created specific databases on older persons living in care facilities.

B. Discrimination

51. Contributions to the report covered a range of initiatives and measures put in place to eliminate discrimination against older persons, particularly as it relates to employment, retirement, vocational training and membership in professional or community organizations. Some States have developed legislation to combat age-related discrimination when a distinction is not objectively justified for a legitimate purpose. Interestingly, some anti-discrimination laws also address indirect discrimination, or the existence of a criteria, practice or provision that is apparently neutral but which disadvantages a person of a specific age. Creative initiatives to combat stigma, discrimination and violence against older persons have included a documentary portraying a positive and holistic image of ageing and the publication and wide distribution of leaflets to increase awareness about abuse and dementia-related stigma and discrimination. Also, in a few countries, courts have upheld the principle of age discrimination as prohibited.

C. Violence and abuse

52. Many older men and women experience threats to their rights to life, health, liberty and security of person in the form of violence and abuse in their homes, in care facilities or in their communities, including violent attacks resulting from traditional beliefs. Violence against women, more specifically, has been understood to encompass, but is not limited to, physical, sexual and psychological violence occurring in private or public settings, or perpetrated or condoned by the State, wherever it occurs.[17] Closely linked with discrimination and disempowerment, violence often goes unreported and under-documented as older persons are reluctant or unable to report incidents.

[17] General Assembly resolution 48/104.

53. In general terms, State contributions from all regions in the world acknowledge the complexity and multilayered nature of this phenomenon. Some underlying factors include increasing dependence, isolation and vulnerability, as well as arbitrary seclusion, restraint, lack of financial means or abandonment. There is also recognition of the intrinsic link between age, some forms of cognitive impairment and mental disabilities and neglect. Oftentimes public services available to aid victims of violence, domestic violence or gender-based violence are also mandated to provide services to older victims, including social and psychological support. However, adequate skills and capacities to address specific kinds of elder abuse or to provide alternative arrangements may be lacking.

54. Some Governments, ranging from low to high income levels, have created specific entities and policies to combat elder abuse. Examples include national and community-based organizations specifically created to cater for older persons, offering a variety of services, including hotlines, emergency medical assistance, temporary shelters and legal aid. These also include referral systems, access to information and counselling, on-site inspections at care facilities, home-based professional aid and the submission of anonymous claims. Some Governments have launched large campaigns to combat abuse against older persons. Current programmes also include initiatives such as the compulsory certification of good conduct for paid carers and guidelines for carers, including the introduction of a duty to report elder abuse.

55. Allegations of practicing witchcraft must be placed in the context of gross incidents of abuse and neglect by family and community members. With regard to violence as a result of such allegations, some Governments have established welcome centres around the country for older women who have been abandoned or excommunicated by their families or communities. However, there are no special measures to combat the phenomenon of old, widowed women becoming targets of their own families or communities.

D. Financial exploitation

56. The Madrid Plan of Action on Ageing, 2002, notes that neglect, abuse and violence against older persons takes many forms, physical, psychological, emotional and financial, and that it occurs in every social, economic, ethnic and geographic sphere. As noted in several submissions, older persons continue to face multiple threats to their property, income or goods, which include fraud, arbitrary deprivation of their property, theft, expropriation of their land, property or goods and fraudulent loss of the enjoyment and exercise of their legal capacity, with the purpose of taking control of their financial affairs.

57. Some initiatives to protect the right of older persons to exercise their legal capacity have been reported. Examples include reforms of the juridical protection of older persons considered vulnerable, including new laws about legal guardianship and guarantees for the provision of their consent for decisions concerning their lives and their property. In some cases, older persons can decide in advance who will be in charge of their guardianship and be responsible for their property and well-being.

E. Health

58. The health sector is central to the situation of older persons. Government responses have focused on various issues, including subsidies for medicines, user fee exemptions, health insurance schemes, special services, including geriatric-specific departments, focused attention on certain chronic diseases, training of personnel and research and policies to address mental health issues, notably dementia and, specifically, Alzheimer's disease.

59. Some national health policies have been adjusted to address the increasing level of chronic diseases that often affect older persons. A few countries have taken steps to ensure that every person older than 65 is entitled to a free medical check-up on a regular basis, including diagnosis of and treatment of chronic diseases. In-house services as well as itinerant services are reportedly available in urban and rural centres. A few Governments have also established national health funds, handing out health cards to claim reduced costs for medication, while others have developed mechanisms to ensure adequate consent for services and treatment by older patients.

60. In spite of the array of examples, many concerns have been expressed. Non-governmental organizations stress that older persons continue to be overlooked and deprioritized in health policies, programmes and resource allocation. Currently the discourse on health care in low- and middle-income countries remains strongly focused on maternal and child health, and for that reason health issues throughout the course of life, including those of older persons, are absent from the debate. There is also limited attention to non-communicable diseases, despite the fact that ageing is a key driver of such diseases and that they mainly occur in older age. Additionally, the cost of accessing health care and medicines still remains prohibitive for many of the most marginalized older women and men.

61. The challenges to Member States, particularly low- and middle-income countries, include: lack of comprehensive health policies, including prevention, rehabilitation and care of the terminally ill; the fact that few national plans or strategies on healthy and active ageing guarantee shelter, essential food, sanitation, potable water and essential medicines; lack of legal frameworks to monitor human rights violations in long-term care facilities; and lack of specific measures to avoid pain and provide palliative care that allow the terminally ill to die with dignity.

62. Older persons tend to approach health-care centres at advanced stages of an illness. This is often the result of lack of access to health care, including the distance and cost of travelling to a facility, especially in rural areas where infrastructure is underdeveloped, distances are vast and transportation is problematic; overcrowding of primary health centres; inadequate public health education, including delays in seeking health care when older persons or their families attribute symptoms of a disease to ageing; understaffing and inadequate skills of health professionals; and shortage of medication.

F. Long-term care and home care

63. In the context of reforming the health-care and social services sectors, long-term care represents a key area for intervention where much remains to be developed. In some States measures have been implemented with the aim of

widening the range of options available to potential users of long-term care services and supporting the deinstitutionalization of the long-term care sector by promoting home care and improving end-of-life care. However, long-term care is still inadequate, and it suffers from labour shortages and low quality services.

64. In some submissions it was noted that certain States have created long-term care insurance systems that provide benefits for health and medical services, public welfare and care for long-term diseases or other impediments caused by ageing, including the maintenance of independent daily living. Other submissions noted that the provision of long-term care (for example, treatment, assistance with everyday tasks, home nursing for older persons with chronic illnesses) is divided between the health-care and welfare systems. These services may be organized and financed by local governments, although there is also a large portion of such services provided by the private sector (non-profit associations, foundations and businesses), which are not always subject to central planning or monitoring, and hence neither structural nor sustainable.

65. Home care and home support programmes are essential for individuals whose daily functioning is compromised. These services contribute to the exercise of numerous rights, such as the right to health and freedom of movement. They enhance independence and quality of life. However, some programmes available to persons with disabilities and to older persons offer varying ranges of support options. In some cases eligibility criteria for home support services may differ: some criteria exclude persons with disabilities while others exclude older persons, even though the same services might be required for both groups. In some jurisdictions, when individuals are registered as disabled within the health sector, they may lose that status (along with financial benefits) when they become older.

G. Social security and social protection

66. The full spectrum of examples provided on retirement age, conditions and criteria is wide and would require a country-by-country analysis. It is worth noting, however, that there are two important factors: first, differences based on gender continue to exist; for example in cases where the retirement age for women is lower than that for men. Gradual increases in the retirement age of women to equalize it with that of men are currently under way in a few countries. Secondly, retirement age is at the centre of ongoing reforms, particularly in the European region.

67. ,Similarly, reforms of social security and reforms to cope with poverty among older persons are reportedly varied. There are examples of substantial increases in coverage and universal access to pensions by older persons, with a positive impact in the reduction of poverty. There are more modest examples, including: tax exemptions; subsidies for specific medicines; compensation for sanatorium expenses; the provision of aid devices and prosthetics; and the introduction of special measures to ensure soft loans for housing as part of basic social protection. Old-age cash transfers have also been introduced, and in some cases coverage has doubled in a few years. Life-long pensions for older persons, benefiting a large majority of persons who were not previously eligible for a retirement pension, are also on the agenda. The impact of some of these measures on the lives of the beneficiaries and other members of their households is reportedly positive,

particularly in ensuring the supply of regular meals and increased levels of self-subsistence.

68. Several States, particularly in the European region, have introduced pension reforms in recent years owing, at least partly, to the financial and economic crises. These reforms consider the future sustainability and adequacy of the pension system and they introduce an increase in the national retirement age, aiming at ensuring intergenerational solidarity and redistribution, and also at improving the old age protections guaranteed by the public system, including an adequate income after retirement.

H. Work

69. Some countries are enacting age discrimination legislation that explicitly forbids, prohibits or makes unlawful forms of direct and indirect age discrimination in employment. Examples include anti-discrimination acts covering workers aged 40 and above, with no upper age limit, which are aimed at promoting employment based on ability rather than age. Other countries have enacted affirmative action legislation under which businesses are required to ensure that a percentage of their workers are aged 55 or older, and identifying types of jobs for which hiring priority should be given to older persons.

70. At the regional level, the European Council directive establishing a general framework for equal treatment in employment and occupation (2000/78/EC), which includes age among other grounds for discrimination, has been adopted as part of many national laws. The directive requires that all Member States introduce legislation prohibiting direct and indirect discrimination at work based, inter alia, on age. It covers employment, self-employment and occupation, as well as vocational training and guidance. It will be an important matter, however, to follow up on how the directive is enforced.

I. Adult and continuous education

71. A number of continuous education initiatives, including cultural activity centres, computer and Internet programmes and vocational training, have been presented. Some illustrative examples include: specific policies that address access to life-long learning as part of learning for personal, social and occupational reasons and involve funding for research in that field; financial support to non-governmental organizations that provide access to information and education; and training in adult education. Pilot projects on active ageing in new social networks rely on volunteers willing to offer education on professional infrastructure and on cooperation across generations. In another example, a Government's response to the need for education led to the creation of "universities of the third age", with departments of law, health care, political and economic studies, psychology and agriculture.

J. Participation in policymaking, political and cultural life

72. From a human rights perspective, the direct and informed participation of older persons in the design of public policy is central to their integration as rights-

holders. Participation also constitutes a guarantee against social exclusion and isolation. Several Member States have emphasized the concept of "policies with older persons" in their multisectoral programming. They have created advisory councils to act as the official representative bodies for older people, taking up issues with public and private actors and taking part in policy debates in areas related to pension reform, social insurance, health care and long-term care. In some cases, States have developed national plans of action with the active participation of associations of retired persons.

73. The political participation of older persons is not only a right in and of itself, but also an important way of ensuring that they play an active role in society and that age-sensitive considerations in law and policy are included in national laws. Effectively, beyond setting a minimum age of majority, the right to vote and to be elected is not limited by age in most countries. In a number of States, many representatives on local and public councils are above 60 years of age, and older citizens traditionally participate actively in elections, are members of political parties and organize their own political movements and associations. Older men and women still play active roles in traditional chieftaincy systems, most notably in rural areas.

K. Access to justice and judicial remedies

74. Protection of human rights requires the effective functioning of a justice system, timely remedies for violations and specific guarantees that all persons are equal before the law and before courts.[18]

75. Some submissions note that specific measures have been developed to ensure access to justice for older persons, including: the provision of legal aid or dedicated bodies to assist them; deferral, reduction or exemption of litigation fees; special courts and jury systems to handle disputes involving older persons; human rights counselling services for older persons in welfare facilities; and grant loans to cover the expenses of trials.

76. In many countries, the role of national human rights institutions is of paramount importance. Increasingly, national human rights institutions are playing a critical role on the part of this population group owing, not least, to the fact that more claims from older persons are brought to their attention. Often, national human rights institutions have a broad mandate that includes the protection of older persons, the promotion of their rights and the elimination of any form of discrimination, including in several cases explicit references to age-related discrimination.

V. Conclusions and recommendations

77. There is global recognition of the particular human rights challenges older persons face. As the population continues to age and larger numbers of older persons are found in low- and middle-income countries, some of these challenges are bound to become more acute. Violence, abuse and neglect of older persons are a

[18] As provided for in the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI)), articles 2.3 and 26.

matter of concern around the world. Age discrimination in relation to the enjoyment of all rights is compounded by other forms of discrimination, specifically discrimination based on health conditions, sex, disabilities or ethnic origin.

78. Measures identified at the national level and submitted for the compilation of the present report were multiple and diverse, and included some good practices. Some national Governments, particularly in recent years, have paid attention to normative gaps and to the need to afford special protection to older persons. However, these policies are inconsistent across the globe and do not generally indicate the presence of comprehensive legal, policy and institutional frameworks for the protection of the human rights of older persons. Particularly lacking are mechanisms ensuring participation and accountability. To varying degrees, the contributions underlined deficits in the implementation of policies, when available, while other submissions noted that while measures may be effective, they are insufficient when confronted with large and growing demands. In situations where more structural measures are required, some Governments have chosen a welfare approach, which may not ensure sustainability or long-term impact on the enjoyment of human rights without discrimination.

79. At the international level, there is still no dedicated international protection regime for the human rights of older persons. Existing human rights mechanisms have lacked a systematic and comprehensive approach to the specific circumstances of older men and women.

Recommendations

80. **The mandate of the Open-ended Working Group on Ageing for the purpose of strengthening the protection of the human rights of older persons, established in December 2010 by the General Assembly in its resolution 65/182, is a crucial step towards exploring existing gaps at the international level in the protection of the human rights of older persons. The Assembly may wish to consider the continuation of the work of the Open-ended Working Group so that it may continue to address such gaps, and to further consider the feasibility of further instruments and measures, as a matter of priority.**

81. **The General Assembly may wish to recommend that Member States enhance their capacity regarding more effective data collection, statistics and qualitative information in order to better assess the situation and rights of older persons and to set adequate monitoring mechanisms for programmes and policies geared towards ensuring the human rights of older persons. Data should be collected with particular attention to older persons in urban, suburban and rural areas, as well as older persons in situations of vulnerability, such as older women or older persons living in poverty.**

82. **In addition, the General Assembly may wish to recommend that States parties to existing international instruments incorporate the situation of older persons more explicitly into their reporting. Dedicated attention by treaty body monitoring mechanisms and special procedure mandate holders to the situation of older persons in their dialogue with States, in their consideration of reports or in their country missions should also be placed higher on the agenda.**

83. **The General Assembly may wish to recommend that Member States design and implement more effective multisectoral policies and programmes on the rights of older persons, in line with the principles of equality and non-discrimination, with due consideration for existing instruments and national plans of action on ageing. Governments can benefit from the technical cooperation and support of other stakeholders in their endeavours, including national human rights institutions, non-governmental organizations, national statistical institutions, academic entities and the specialized agencies and entities of the United Nations.**